

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

SOUTHERN NATURAL GAS  
COMPANY,

Plaintiff,

vs.

2.824 ACRES OF LAND  
LOCATED IN CULLMAN COUNTY,  
ALABAMA; TIMOTHY P.  
OSWALD; GENA K. OSWALD, ET  
AL.,

Defendants.

ENTERED

NOV 30 1999

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CV 97-L-0448-S

RE: Cullman County Tract  
No. 129

MEMORANDUM OPINION

I. Introduction

Currently pending before this court is an objection to the Report of Commissioners filed by defendants, Timothy P. Oswald and Gena K. Oswald. Under Rule 53(e)(2) of the Federal Rules of Civil Procedure, "the court after hearing may adopt the report or may modify it or may reject it in whole or in part." Likewise, the court's review of the Report of Commissioners is only for clear error. The following paragraphs contain the issues that were discussed in oral argument, the party's objections to the Report of

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Commissioners, as well as the court's findings and final judgment.

## II. Discussion and Findings

### A. Damages Awarded for the Permanent Easement

The Commissioners awarded \$1,220 for the permanent pipeline easement. Defendants object generally to the values awarded. The court however finds that defendants have failed to demonstrate any clear error on the part of the Commissioners, and, as such, the Commissioners' findings are approved and adopted as the findings of the court.

### B. Amount Awarded for Temporary Easement

The Commissioners recommended that \$4,352 was appropriate compensation for the temporary easement and temporary occupancy hindrance. The Commissioners' findings are approved and adopted as the findings of the court.

### C. Amount Awarded for Timber Damage

The Commissioners recommended that damage to the timber in this easement amounted to \$6,500. The Commissioners' findings are approved and adopted as the findings of the Court.

### D. Damage to the Remaining Property

The Commissioners recommended that the landowners be awarded \$8,000 for damages to the remainder and for loss of utility for the use of defendants' lot. Defendants object to the Commissioners'

award of remainder damages claiming that the Commissioners failed "to provide any compensation to the Defendant for loss of value to the remaining property." The record does not reflect defendants' claim as the Commissioners did award a substantial amount as compensation. Nevertheless, defendants have failed to demonstrate any clear error on the part of the Commissioners, and, as such, the Commissioners' findings are approved and adopted as the findings of the court.

### III. Conclusion

The Commissioners have recommended an award to the owners of the property in the above-described easement in the amount of \$20,072<sup>1</sup>. Having concluded that no element of the Commissioners' award is clearly erroneous, the court approves and adopts the Report of Commissioners in whole. In view of the foregoing discussion, a separate judgment will be entered in the amount of \$20,072 as just compensation in favor of the defendant.

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<sup>1</sup>The Report of Commissioners states that the four elements of just compensation total \$20.052. However, the four elements of compensation actually add up to \$20,072. The court is acknowledging this as an error in calculation.

DONE this 30<sup>th</sup> day of November 1999.

  
SENIOR JUDGE